



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 29, 1995

Mr. Doug Young
Scanlan, Buckle & Young, P.C.
602 West 11th Street
Austin, Texas 78701-2099

OR95-1625

Dear Mr. Young:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 35850.

The City of Lakeway (the "city") received a request for information regarding a former city employee's claim for workers compensation benefits. You contend that the requested information is excepted from required public disclosure under section 552.101 of the Government Code.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." You claim that sections 402.083 and 402.086 of the Labor Code make the requested information confidential. Section 402.083 provides:

(a) Information in or derived from a claim file regarding an employee is confidential and may not be *disclosed by the commission* except as provided by this subtitle. [Emphasis added.]

Section 402.086 provides:

(a) Information relating to a claim that is confidential under this subtitle remains confidential *when released* to any person, except when used in court for the purposes of an appeal. [Emphasis added.]

(b) This section does not prohibit an employer from releasing information about a former employee to another employer with whom the employee has applied for employment, if that information was lawfully acquired by the employer releasing the information.

The sections you have cited concern the release of workers' compensation claim information by the Texas Workers' Compensation Commission. The information at issue is a first report of injury created and maintained by the city. Accordingly, this information is not made confidential by sections 402.083 and 402.086 of the Labor Code. *See Open Records Decision No. 533 (1989).*

However, section 552.117 of the Government Code excepts from disclosure portions of the information you submitted for review.¹ In pertinent part, section 552.117 excepts from disclosure the home addresses and telephone numbers of all peace officers, as defined by article 2.12 of the Code of Criminal Procedure, and the home addresses and telephone numbers of all current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024. Therefore, section 552.117 requires you to withhold the home address or telephone number of a peace officer. In addition, section 552.117 requires you to withhold the home address or telephone number of an official, employee, or former employee who requested that this information be kept confidential under section 552.024. *See Open Records Decision Nos. 622 (1994), 455 (1987).* You may not, however, withhold the home address or telephone number of an official or employee who made the request for confidentiality under section 552.024 after this request for the documents was made. Whether a particular piece of information is public must be determined at the time the request for it is made. *Open Records Decision No. 530 (1989) at 5.*

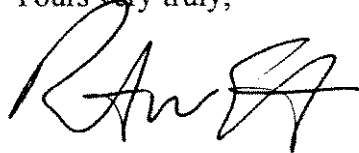
The submitted document also contains a social security number. A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). In relevant part, the 1990 amendments to the federal Social Security Act make confidential social security account numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See Open Records Decision No. 622 (1994).* We caution, however, that an employer may be required to obtain an employee's social security number under laws that predate October 1, 1990;

¹We note that the open records laws were substantially amended by the Seventy-fourth Legislature. Act of May 29, 1995, 74th Leg., R.S., ch. 1035, 1995 Tex. Sess. Law Serv. 5127 (Vernon) (to be codified as amendments to Gov't Code ch. 552). The amendments to chapter 552 "affecting the availability of information, the inspection of information, or the copying of information, including the costs for copying information, apply only to a request for information that is received by a governmental body on or after September 1, 1995." *Id.* § 26(a), 1995 Tex. Sess. Law Serv. at 5142 (Vernon). A request for information that is received by a governmental body prior to September 1, 1995, is governed by the law in effect at the time the request is made. *Id.*

a social security number obtained under a law that predates October 1, 1990, is not made confidential by the 1990 amendments to the Social Security Act. Based on the information that you have provided, we are unable to determine whether the social security number at issue is confidential under federal law. On the other hand, section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Therefore, prior to releasing *any* social security number, you should ensure that it was not obtained pursuant to a law enacted on or after October 1, 1990.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'RWS', with a stylized flourish at the end.

Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/LBC/rho

Ref: ID# 35850

Enclosures: Submitted document

cc: Mr. Wally Davis
P.O. Box 4760
Austin, Texas 78765
(w/o enclosures)